

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KIMBERLY DIONNE ROSS,

:

Plaintiff,

Case No. 3:10-cv-316

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

-VS-

MICHAEL J. ASTRUE,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

:

REPORT AND RECOMMENDATIONS

This case is before the Court *sua sponte*.

On December 17, 2010, this Court entered an Order to Show Cause directing Plaintiff to show cause not later than December 30, 2010, why this matter should not be dismissed for failure to comply with Fifth Amended Magistrate Judges' General Order No. 11 and for failure to prosecute. (Doc 8). In the alternative, the Court granted Plaintiff leave to file her Statement of Errors by that date. *Id.* Plaintiff has not responded to the Court's Order nor has she filed her Statement of Errors and the time within which to do so has passed.

It is therefore recommended that this matter be dismissed for failure to comply with Fifth Amended Magistrate Judges' General Order No. 11 and for failure to prosecute.

January 3, 2011.

s/ Michael R. Merz
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed.R.Civ.P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed.R.Civ.P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed.R.Civ.P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See, United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).